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COSTCO WHOLESALE CORPORATION, a Washington
Corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHARLOTTE KIRIHARA,

Plaintiff,

vs.

COSTCO WHOLESALE
CORPORATION, a Washington
Corporation; and DOES 1-50, Inclusive,

Defendants.

CASE NO. 2:19-cv-00611

**DEFENDANT'S NOTICE OF
REMOVAL OF ACTION UNDER 28
U.S.C. § 1441(a) (DIVERSITY)**

**TO THE CLERK OF THE ABOVE ENTITLED COURT, PLAINTIFF,
CHARLOTTE KIRIHARA, AND TO HER COUNSEL OF RECORD:**

NOTICE IS HEREBY GIVEN that Defendant, COSTCO WHOLESALE CORPORATION, a Washington Corporation ("Defendant"), hereby removes this action from the Superior Court of the State of California, County of Los Angeles, Central District, to the United States District Court, Central District of California and sets forth in support of its Notice of Removal of Action the following:

1 1. On September 12, 2018, Plaintiff, CHARLOTTE KIRIHARA
2 (“Plaintiff”), commenced an action against Defendant by filing a Summons and
3 Complaint in the Superior Court of California, County of Los Angeles, Central District,
4 Case No. BC721682. (Copies of Plaintiff’s Summons, Complaint, Civil Case Cover
5 Sheet and Notice of Civil Case Assignment are attached as Exhibit A to the Declaration
6 of Christina N. Meissner.)

7 2. This action was served improperly on Defendant by substitute service on
8 October 9, 2018, without attempting personal service, however Defendant did not
9 receive notice of this lawsuit until December 28, 2018 when Plaintiff’s attorney called
10 and advised Costco’s administrator, Gallagher Bassett, of the complaint and emailed a
11 copy of same. (Declaration of Christina N. Meissner at ¶ 4.) Thus, Defendant first
12 received notice of this action on December 28, 2018, a date less than 30 days before the
13 date this notice of removal is filed. (A Copy of the proof of service is attached to the
14 Declaration of Christina N. Meissner as Exhibit B; emails confirming receipt of
15 Complaint on December 28, 2018 are attached hereto as Exhibit C.) Defendant has not
16 otherwise been served with any other process, pleadings, or orders, other than those
17 attached as Exhibits A and B.

18 3. Defendant has filed this Notice pursuant to 28 U.S.C. § 1446(b) in a
19 timely fashion, in that this Notice has been filed within one year of the commencement
20 of the action and within 30 days of service of the summons and complaint.
21 See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc. 526 U.S. 344 (1999).

22 **Complete Diversity Exists**

23 4. This action wholly involves citizens of different states. At the time this
24 action was commenced, and since that time, Plaintiff was and is a resident and citizen
25 of the State of California, with her domicile in the State of California. (See Exhibit A
26 at ¶ 2, Meissner Dec. at ¶ 5.)

27 5. Pursuant to 28 U.S.C. § 1332(c), “a corporation shall be deemed to be a
28 citizen of any State by which it has been incorporated and of the State where it has its

principal place of business.” Defendant was, at the time of the filing of this action, and still is, a citizen of the State of Washington, where it has its principal place of business and where it is incorporated. (See Exhibit D to Meissner Decl.; Meissner Decl. ¶ 6.)

6. Pursuant to 28 U.S.C. §1441(a), the fictitious defendants named in the complaint are disregarded for purposes of determining the existence of diversity citizenship.

The Amount in Controversy Requirement is Satisfied

7. Plaintiff filed an unlimited civil complaint seeking monetary damages in excess of \$25,000.00. In the complaint, and as a result of the slip and fall incident, Plaintiff claims to have suffered (1) special damages and (2) general damages. (See Complaint at p. 3.) Plaintiff prays for compensatory damages according to proof at trial

8. Per a demand letter sent to Defendant on March 30, 2018, as of March 30, 2018, Plaintiff incurred \$71,517.00 in damages for past medical treatment she allegedly received as a result of this incident. As for future medical care, Plaintiff’s demand claimed she would need physical therapy, chiropractic care, medication, injections and orthopedic visits totaling \$50,000.00 over the next five years. Finally, Plaintiff’s demand letter noted that she would be claiming \$100,000.00 in general damages if the case proceeds to trial. In sum, Plaintiff’s demand letter notes she will be claiming \$221,517.00 in damages at trial of this matter. (Meissner Declaration at ¶ 8.)

9. Thus, based on the facts provided above, the amount in controversy, exclusive of interest and costs, is in the excess of \$75,000.00. This Court therefore has original jurisdiction of this action under 28 U.S.C. § 1332 and, because Defendant is not a citizen or resident of the State of California, wherein this action is pending, removal of the action to this court is proper under 28 U.S. Code § 1441(a).

The Other Requirements for Removal Are Met

10. A copy of the Notice to Adverse Parties of Removal of the Case to Federal Court, which is attached to this Notice, will be filed with the Superior Court of

1 California, County of Los Angeles, Central District and served on all involved parties
2 to this action. (A true and correct copy of the Notice to Adverse Parties of Removal of
3 Case to Federal Court is attached to the Declaration of Christina N. Meissner as Exhibit
4 E.)

5 11. Removal to this Court is proper as the Superior Court of the State of
6 California, County of Los Angeles, where this action was originally filed, is located
7 within this district.

8 12. Plaintiff has been served with this Notice of Removal, and the additional
9 supporting pleadings.

10 WHEREFORE, Defendant, COSTCO WHOLESALE CORPORATION, prays
11 that this action be removed to this Court.

12 Dated: January 25, 2019

McNEIL TROPP & BRAUN LLP

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14 By: /s/ Christina N. Meissner
15 Deborah S. Tropp, Esq.
16 Christina N. Meissner, Esq.
17 Attorneys for Defendant,
18 COSTCO WHOLESALE
19 CORPORATION
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